

Four Walls Rule

During a webinar on January 19, 2024, with the Office of Mental Health and Substance Abuse Services (OMHSAS), Primary Contractors, Behavioral Health-Managed Care Organizations (BH-MCOs), providers, and community stakeholders, there was a discussion about requirements imposed by the Centers for Medicare & Medicaid Services (CMS) regarding the provision of Mental Health Outpatient (MHOP) clinic telehealth services. One of the CMS requirements under 42 C.F.R. § 440.90, known as the “Four Walls Rule,” requires that during telehealth services, either the patient or the clinician is physically onsite at the clinic. This requirement had been waived by CMS during the Public Health Emergency (PHE). With the ending of the PHE, CMS does not have the authority to waive this federal payment regulation.

Over the past several weeks, CBH has been in discussions with other counties and BH-MCOs and most recently with OMHSAS to both stress the potential impact on service delivery and seek options that would preserve access to care. On February 1, 2024, CBH issued a provider notice titled “[Delivery of Telehealth at Mental Health Outpatient Clinics \(MHOP\)](#),” recommending that agencies ensure continued access to care.

While these discussions continue, CBH’s interim guidance is as follows:

CBH recognizes the potential harm to members that may result from a disruption in the delivery of MHOP clinic services. We encourage all providers to review the Four Walls Rule, assess their current telehealth delivery structure, and develop a plan to potentially take the necessary steps to comply if you are not already aligned with this CMS rule. However, we request that you refrain from interrupting the ongoing MHOP clinic telehealth services and continue operations as usual during this review period.

We will be closely monitoring this situation, seeking guidance from our legal counsel, and working with our partners across the state and with OMHSAS to identify sustainable solutions. We will communicate any additional guidance to MHOP Clinics as soon as possible.

Thank you for your ongoing efforts to serve our Members.